

REMARKS

After the foregoing amendment, Claim 1 is pending in this application. Claims 1 is amended without prejudice and claims 2 – 3 are cancelled without prejudice. Support for the amendments can be found in the original claims and the abstract. Applicants submit that no new matter is introduced into the application by these amendments.

Applicants thank the Examiner for indicating that the claimed inventions is “not anticipated nor made obvious by the prior art” in the previous December 3, 2007 office action. Applicants also thank the Examiner for withdrawing the 35 U.S.C. §112, second paragraph rejections.

Claim Rejections - 35 USC §112, first paragraph – enablement.

The May 21, 2008 Action maintains the 35 U.S.C. §112, first paragraph rejections in the December 3, 2008 office action. This is the only rejection or objection remaining. The Action provides certain portions of MPEP §2164 that support the proposition that a single species cannot enable a generic claim in the chemical arts. Applicant agrees that in certain instances description of a single representative species may not enable a claim. But Applicant maintains that in the instant application, like others reported from the Federal Circuit, a single representative species is sufficient to enable the claims.

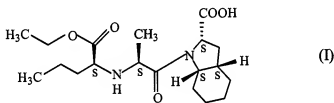
Nonetheless, in an earnest effort to advance prosecution, Applicant amended claim 1 to recite the species that the December 3, 2008 office action indicated are enabled. As stated:

3. Claims 1-3 rejected under 35 U.S.C. 112, first paragraph. The specification is enabling for a process for preparing the claimed crystalline form of perindopril erbumine using the following solvents: N,N-dimethylformamide, dimethoxymethane, 2,2-dimethoxypropane, 1,2-dimethoxyethane.

December 3, 2007 office action, page 2. And claim 1, as amended, recites:

A process for preparation of crystalline perindopril erbumine ...
comprising,

reaction of a solution of perindopril of formula (I),



in a solvent selected from N,N-dimethylformamide, dimethoxymethane, 2,2-dimethoxypropane and 1,2-dimethoxyethane with tertiary butylamine and crystallization of the erbumine salt thus obtained by heating the reaction mixture to reflux, filtering hot, cooling to 20°C to 30°C, and further cooling to 0° C to 15° C for 30 minutes to 1 hour and finally filtering off and drying the crystals.

Underlining emphasis added.

Applicants submit that all rejections are overcome and respectfully requests withdrawal of all rejections of the claims.

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application, including claim 1, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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